

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

**JIM HOOD, ATTORNEY GENERAL OF
THE STATE OF MISSISSIPPI, *EX REL.*
THE STATE OF MISSISSIPPI**

PLAINTIFFS

V.

CIVIL ACTION NO. 3:12-CV-565

**JPMORGAN CHASE & CO. and
CHASE BANK USA, N.A.**

DEFENDANTS

CONSOLIDATED WITH

**JIM HOOD, ATTORNEY GENERAL OF
THE STATE OF MISSISSIPPI, *EX REL.*
THE STATE OF MISSISSIPPI**

PLAINTIFF

V.

CIVIL ACTION NO. 3:12-CV-571

**HSBC BANK NEVADA, N.A.;
HSBC CARD SERVICES, INC.; and
HSBC BANK USA, N.A.**

DEFENDANTS

CONSOLIDATED WITH

**JIM HOOD, ATTORNEY GENERAL OF
THE STATE OF MISSISSIPPI, *EX REL.*
THE STATE OF MISSISSIPPI**

PLAINTIFF

V.

CIVIL ACTION NO. 3:12-CV-572

**CITIGROUP, INC.; CITIBANK, N.A.; and
DEPARTMENT STORES NATIONAL BANK**

DEFENDANTS

CONSOLIDATED WITH

**JIM HOOD, ATTORNEY GENERAL OF
THE STATE OF MISSISSIPPI, *EX REL.*
THE STATE OF MISSISSIPPI**

PLAINTIFFS

V.

CIVIL ACTION NO. 3:12-CV-573

**DISCOVER FINANCIAL SERVICES, INC.;
DISCOVER BANK; DFS SERVICES, L.L.C.;
and AMERICAN BANKERS MANAGEMENT
CORPORATION, INC.**

DEFENDANTS

CONSOLIDATED WITH

**JIM HOOD, ATTORNEY GENERAL OF
THE STATE OF MISSISSIPPI, *EX REL.*
THE STATE OF MISSISSIPPI**

PLAINTIFFS

V.

CIVIL ACTION NO. 3:12-CV-574

**BANK OF AMERICA CORPORATION and
FIA CARD SERVICES, N.A.**

DEFENDANTS

CONSOLIDATED WITH

**JIM HOOD, ATTORNEY GENERAL OF
THE STATE OF MISSISSIPPI, *EX REL.*
THE STATE OF MISSISSIPPI**

PLAINTIFFS

V.

CIVIL ACTION NO. 3:12-CV-575

**CAPITAL ONE BANK (USA) N.A.; and
CAPITAL ONE SERVICES, LLC**

DEFENDANTS

NOTICE OF U.S. SUPREME COURT ACTION

Defendants Discover Financial Services, Inc., Discover Bank, and DFS Services, L.L.C. (collectively, “Defendants”) hereby notify this Court that the U.S. Supreme Court recently granted a petition for writ of certiorari relating to the Fifth

Circuit's decision in *Mississippi ex rel. Hood v. AU Optronics Corp.*, 701 F.3d 796 (5th Cir. 2012). *See Mississippi ex rel. Hood v. AU Optronics Corp.*, No. 12-1036, 2013 WL 655204 (U.S. May 28, 2013). All parties in *AU Optronics* asked the Supreme Court to grant certiorari to resolve a circuit split on the issue of whether an attorney general action that asserts claims on behalf of citizens is removable as a "mass action" under the Class Action Fairness Act ("CAFA"). The Supreme Court's decision in that case may impact this Court's ruling on the Attorney General's pending motion to remand.

In *AU Optronics*, the Fifth Circuit held that a lawsuit filed by the Mississippi Attorney General seeking relief for harms allegedly suffered by Mississippi citizens was removable as a "mass action" pursuant to the CAFA provisions codified at 28 U.S.C. § 1332(d). Both Plaintiff and Defendants in this case cited *AU Optronics* as controlling authority on the question of whether this case is a removable "mass action." *See, e.g.*, Pl.'s Supp. Mem., Doc. 27, at 2-9; Defs.' Mem. in Opp., Doc. 31, at 17-21.

Defendants removed this action to federal court on three grounds: (1) the complete preemption doctrine, and (2) CAFA. If this Court agrees that jurisdiction over this action exists under the complete preemption, then the Supreme Court's decision in *AU Optronics* will have no effect here. If, however, this Court concludes that jurisdiction over this action depends on the CAFA "mass

action” provisions, then the Supreme Court’s decision in *AU Optronics* will be controlling, and Defendants respectfully submit that this Court should await the Supreme Court’s decision before ruling on the remand motion.

Defendants will keep this Court apprised of the status of *AU Optronics*.

This the 31st day of May, 2013.

**DISCOVER FINANCIAL SERVICES,
INC., DISCOVER BANK, and DFS
SERVICES, L.L.C.**

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CERTIFICATE OF SERVICE

I do hereby certify that I have this day served via electronic filing and/or U.S. Mail, postage prepaid, a true and correct copy of the foregoing to:

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This, the 31st day of May, 2013.

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